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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/989,567	11/19/2001	Carla Arlene Turner		1189

7590 11/15/2005  
Carla Arlene Turner  
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EXAMINER

VANATTA, AMY B

ART UNIT PAPER NUMBER

3765

DATE MAILED: 11/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/989,567

**Applicant(s)**

TURNER, CARLA ARLENE

**Examiner**

Amy B. Vanatta

**Art Unit**

3765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 4 and 5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 4 and 5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Specification*

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

2. The abstract of the disclosure filed 10/12/05 is objected to because it is too long.

The Abstract should not exceed 150 words in length, as noted above. Correction is required. See MPEP § 608.01(b).

3. The substitute specification filed 10/12/05 has not been entered because it does not conform to 37 CFR 1.125(c) because: The marked up copy filed on 10/12/05 does not accurately reflect the changes (additions and deletions) relative to the immediate prior version of the specification. The changes indicated should be made in comparison to the originally filed specification, since the substitute specifications filed 11/25/02 and 4/29/05 have not been entered. See in particular the Detailed Description of the Invention, which does not accurately reflect the changes made relative to the originally

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filed specification. Additionally, a clean version of the specification (without markings) was not supplied, as required by 37 CFR 1.125(c).

4. The title of the invention, TE (Turner Ensemble) by Vito" is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed, for example "Combination Jacket and Tote Bag".

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 4 and 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 4 should set forth only the invention which is being claimed and should not include the phrase "I claim", which puts the claim in narrative form. Thus, the phrase "I claim" should be deleted from claim 4.

Claim 4 is also confusing since it is incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. That is, the structural relationship between the garment and the sack portion is not set forth, and no structure defining the garment and sack portions is claimed. The structure which goes to make up the device must be

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clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device.

Claim 5 is rendered indefinite by depending from a cancelled claim. Claim 5 should depend from claim 4, rather than claim 1.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 4 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by De Lott (US 4,700,409).

De Lott discloses a convertible garment comprising a jacket which includes a pouch concealed between inner and outer rear walls of the jacket. The pouch 36 is a “capacious sack portion” which is provided in combination with the jacket, thus forming a garment and capacious sack portion combination as claimed. The device includes a “means for concealing such combination”, in the form of the provision of the pouch between the inner and outer rear walls of the garment such that the pouch is hidden from view in the manner disclosed by applicant, and when the garment is worn the pouch opening is concealed from view since it is on the inside of garment, as shown in Figure 2 of De Lott. Regarding claim 5, the garment of De Lott consists essentially of two independent clothing articles, that is, a first clothing article is formed by the outer

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layer of the garment (formed of panels 14,16, and 22 attached together) and the second article is the inner layer formed by elements 24 and 26 attached together, which when combined with the capacious sack portion 36, prohibit the disclosure of the sack as claimed. The garment of De Lott is reversible in that it is clearly capable of being turned inside out. The recitation of the garment being "reversible" does not define any actual structure over that of De Lott since this recitation merely requires the ability to be reversed, or the capability of being turned inside out, which capability the garment of De Lott clearly has.

### ***Response to Arguments***

9. Applicant's arguments filed 4/29/05 have been fully considered but they are not persuasive. Applicant argues that "De Lott does not disclose...a convertible garment useful as bag as well as a jacket". The examiner contends that De Lott does disclose such a structure; see, for example, the Abstract of De Lott, disclosing the invention as comprising a jacket which may be converted and employed as a carrying bag, and see Fig. 1 of De Lott showing the device as a jacket and Figs. 4-5 showing the device being used as a bag.

10. In the Remarks filed 10/12/05, applicant states that in the event that the claims are not allowable, applicant requests to have a claim drafted by the examiner which is allowable. During the examination of a pro se case, an examiner may draft a claim for the applicant when it becomes apparent to the examiner that there is patentable subject

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matter disclosed in the application. In the present application, patentable subject matter is not evident in the application.

### ***Conclusion***

11. This is an RCE of applicant's earlier application. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

12. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in

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such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

### **Certificate of Mailing**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

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\_\_\_\_\_

Signature: \_\_\_\_\_

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### **Certificate of Transmission**

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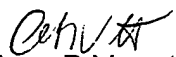
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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amy B. Vanatta whose telephone number is 571-272-4995. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on 571-272-4983. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Amy B Vanatta  
Primary Examiner  
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